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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Holy God, as we labor today, may our praise rise to You. All Your works praise Your Name on the Earth, in the sky, and on the sea.

Lead our Senators along the paths of Your will. Stir Your cleansing and edifying spirit among them as You clarify and strengthen their thoughts and actions. Lord, empower our lawmakers to work diligently for the freedom and justice of all people. Help them to see and know purposes beyond partisan interest, as they remember that they are first and foremost citizens of Your kingdom. Remind them that You guide the humble and teach them Your way.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 29, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks, there will be a period of morning business, with Senators allowed to speak for up to 10 minutes each. The Republicans will control the first hour and the majority will control the next hour.

I anticipate that the Senate will adopt the motion to proceed to H.R. 3548, the Unemployment Benefits Extension Act of 2009. We also expect to receive the conference report to accompany Interior appropriations. I have spoken to the Speaker and the majority leader of the House, and they expect to have that to us early this afternoon. The conference report contains a continuing resolution that funds the government through December 18. We hope to reach a short time agreement to consider that conference report today. If we are not able to do that, we are going to have to have some votes tomorrow and it could spill over into Saturday if we can't work anything out. We have to get the unemployment done. We have millions of people who are waiting for that money.

MEASURES PLACED ON THE CALENDAR—S. 1963 AND H.R. 3617

Mr. REID. Madam President, I understand there are two bills at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bills by title for a second time.

The bill clerk read as follows:

A bill (S. 1963) to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care veterans, and for other purposes.

A bill (H.R. 3617) to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs.

Mr. REID. Madam President, I object to any further proceedings with respect to these matters en bloc.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bills will be placed on the calendar.

NOMINATIONS

Mr. REID. Madam President, last week four Nevadans tragically died from the H1N1 virus, the swine flu. In Clark County, NV, the State's most populous county and the home of Las Vegas, 18 people have now died as a result of the H1N1 flu. We are all familiar with this strain of the flu. It has been on the front pages for months.

This past weekend, President Obama declared the outbreak a national emergency in anticipation of a rush of patients to doctors' offices and emergency rooms.

Fortunately, for nearly 150 years the United States has had a high-ranking official in place to serve as the government's top public health officer. We call that person the Surgeon General of the United States. Unfortunately, though, right now we have no permanent Surgeon General. The reason is as simple as it is mind-boggling: Republicans in the Senate refuse to confirm President Obama's exceptionally qualified nominee for this job. I would try to explain the Republican reason for the refusal, but, as with so many other

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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things they oppose, a rationale simply does not exist. Senate Republicans are simply so opposed to everything—absolutely everything—that they even oppose putting people in some of the most important positions in our government. Democrats, on the other hand, believe those who are chosen to serve our country must be able to get to work without delay.

Perhaps those watching and listening think this is how the Senate always operates. It is not. Allow me to put these delays in context.

President Obama has 228 nominations awaiting confirmation—228. During the first Bush administration, there was not a problem; during the Reagan years, not a problem; during the Clinton years, minor problems; during the second Bush administration, no problems. During the first Bush administration, the first year, there wasn't a single cloture motion that had to be filed. He got basically everyone he wanted. But that isn't the way it is here. In the first 4 months of the Bush administration, as I indicated, the Senate was controlled by the President's party. We were in the minority. There wasn't a single filibuster—not one. But in the first 4 months of the Obama administration, Republicans filibustered eight of his nominees—in the first 4 months. That means President Obama faced twice as many filibusters of his nominees in the first 4 months of his administration as President Bush faced in his first 4 years.

Those who are watching may also understandably assume that if this is not how the Senate always operates, then there must be something extraordinarily controversial about these nominees, something highly objectionable or even questionable. Again, no. None of the nominees are controversial. None of them are questionable.

As I mentioned, Republicans in the Senate refuse to confirm our Nation's Surgeon General at a time when our President has declared a national emergency over the H1N1 virus. The President's nominee, Dr. Regina Benjamin, a physician from Alabama and the founder of a nonprofit rural health clinic, is eminently qualified for the position. She had been written up in news accounts from all over the country before she was selected by President Obama.

But that is not all. Republicans in the Senate also refuse to confirm the top official responsible for science and technology in our Department of Homeland Security. For that position, President Obama nominated an expert in combating both pandemics and bioterror attacks. Imagine that. Americans are bracing against a flu epidemic here at home and threats of terrorism from abroad; the President nominated someone highly experienced in both of these areas, and Republicans are saying no.

If that sounds like something you wouldn't want your Senate to do, you might even be further concerned that

it is not the first time these Republican Senators have done it. While our sons and daughters are fighting in Iraq and rebuilding that nation, earlier this year Republicans delayed the confirmation of America's Ambassador to Iraq. While troops serve bravely in Afghanistan, earlier this year Republicans delayed the confirmation of LTG Stanley McChrystal, our new commander in that difficult war.

These telling examples are only the tip of the iceberg. Allow me to continue.

Months ago, President Obama picked a trade expert who worked in the Reagan, Bush, and Clinton administrations to be this Nation's Deputy Trade Representative, an extremely important job, but she has yet to officially join the Obama administration. Listen to this one. Why? Because a Republican Senator is holding up the nomination over a bill they think would hurt tobacco companies. If that seems like an unrelated, random reason to hold up this qualified nominee, you might even be more outraged to learn that the bill that so angers this Republican Senator is not before the U.S. Senate, it is not even before the U.S. House of Representatives. In fact, it is not even in the United States. It is a bill before the Canadian Parliament. It should go without saying that our administration can't dictate how the Canadian legislature does its job any more than the Canadian Parliament can dictate how we do ours. It should go without saying, but unfortunately we evidently have to say it.

Another example: President Obama nominated another former chief of staff of the General Services Administration, which manages Federal agencies. Today, that person has still not been confirmed. President Obama nominated this woman in April on the first full day of the Major League Baseball season. Today, on the second day of the World Series, she remains unconfirmed for her job. Why? Because a Republican Senator is demanding that a Federal building be built in his home State.

Let's go over these few things. There are 228 being held up, but we know we should have a Surgeon General. We know Regina Benjamin is eminently qualified. We have a flu pandemic. We have other issues facing our country, and we need the top doctor. We don't have it. Why? Just because the Republicans don't want anyone to move forward. We know that the head of the Department of Homeland Security, the Secretary of Homeland Security, is desperate to have someone there who can do the work that is needed dealing with this flu epidemic. I had a call from the Secretary of Homeland Security, Janet Napolitano, the day before yesterday. She said: I can't imagine why I can't get this woman to help me. We are dealing with bioterrorism, with the flu pandemic, and she is being held up. We are talking about trade relations that need to be improved all over the world, and we have this being held

up because of some tobacco law they are considering in the Canadian Parliament.

There are so many examples. President Obama asked an expert in Latin American affairs, a man who has written books, a scholar—his expertise is in regime change in Central and South America. He has been a visiting scholar at many fine universities in the United States, even at Oxford. He has been chosen to be our Nation's Assistant Secretary of State for the Western Hemisphere to take care of what is going on in the southern part of this world in which we live.

Nearly 6 months after he was nominated, one Republican Senator still refused to allow the confirmation to move forward. This Senator is trying to force our Nation to recognize a military coup in Honduras, and so he is holding this nomination hostage. Most people would reasonably conclude that this nominee's expertise would be particularly useful at a time when there is a diplomatic crisis in Central America, in Honduras. The man who was ousted—some say constitutionally, some say not—they took him out of the country. He came back, and now he is in Brazil's Embassy and has been for about a month. There are demonstrations every day. The economy is staggering. Yet this is being held up.

These examples are not isolated. They are part of a much larger pattern. This year, Republicans have already gone to great lengths to ensure that President Obama cannot have his full team in place. We have already wasted taxpayers' precious time and money by holding up the present nominees for Secretary of Labor, Secretary of Health and Human Services, Director of National Drug Control Policy, Deputy Secretary for the Department of the Interior, two members of the Council of Economic Advisers, a number of Assistant Attorneys General, and many others. These nominees finally broke through, the ones I just mentioned: the Secretary of Labor, Health and Human Services, the Director of National Drug Policy, the Deputy Secretary of the Interior, two members of the Council of Economic Advisers, and a number of Assistant Attorneys General. They finally broke through, but their story doesn't end there. When votes were finally called, they passed with flying colors.

They passed with votes of 89 to 2, 97 to 1, 88 to 0, and 97 to 0. The numbers don't lie, and there is no clear evidence that many of these objections were without merit—just to stall. Some took weeks of time when we could have been doing other things. So it is obvious that these objections are not the norm, that they are not based on qualifications, and they are rampant with this Republican minority.

As far as Republicans are concerned, no one is too important to block. No high-ranking position is too important to remain empty, and no problem is too urgent to delay. The person who Janet

Napolitano wants to work on bioterrorism and the pandemic that we have with the flu, who has been selected by the President, is being held up; the Surgeon General is being held up; the Trade Representatives are being held up; 228 nominations are being held up for reasons like a Canadian bill, like a building in their State—petty reasons.

The American people must look at what is going on and say: What is this all about? It is about Republicans setting records last year on how many filibusters they would conduct. If I sound like a broken record, it is because Senate Republicans continue to be recordbreakers. Last year, after they held up the work of Congress more than any other time in history, the American people rejected the Republican status quo. They said no to Republicans' "just say no" strategy.

There is no question that the American people are taking notice, there is no question that they see these games for what they are, and there is no question they are fed up with these petty partisan tricks, and there is no question that these tactics have consequences—consequences that we don't have one of the most important jobs in America filled by one of the most important doctors in America, Regina Benjamin, and that we don't have somebody in the Department of Homeland Security to help with bioterrorism and with the flu pandemic.

These reckless tactics have consequences. The Republicans delay and delay at their own peril. But the truth is that all Americans suffer. It is time for them to allow these nominations to go through. And I haven't mentioned the judges.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

HEALTH CARE WEEK XV, DAY IV

Mr. MCCONNELL. Madam President, it was a signature assurance of the President's campaign: Middle-class Americans would see no new taxes of any kind under the new administration.

It is a pledge he will have to break if the health care bill, as currently moving through Congress, makes its way to the President's desk and he signs it. We already know that the bill slashes seniors' Medicare, and study after study shows it is going to drive up premiums for people who already have insurance. Higher taxes will be the third painful blow to Americans already struggling in a recession.

Here is a sample of the new taxes Americans are going to have to bear to finance more government health care. Anyone whose health care benefits are worth more than \$8,000 or any family whose benefits are worth more than \$21,000 will get a 40-percent excise tax.

While backers like to call these "high value" or "Cadillac" plans, the new tax won't be indexed to keep pace with rising health care costs. So as time marches on, it won't just hit the so-called Cadillac plans but the "Buick and the Chevy" plans, too—all the way down to tricycles. Eventually, this tax will hit all plans.

Health insurers also get hit with a giant new nondeductible tax, which we know will get passed along to families in the form of higher premiums.

The bill would tax life-saving medical devices such as heart stents and prosthetics. Prescription drugs get taxed, which we know patients will have to pay for in the form of higher drug costs and premiums.

Tens of millions of American families who have experienced tax-saving benefits of Flexible Spending Accounts to pay for prescription drugs and other necessities will see those benefits wiped out under this plan. In an effort to redirect billions of dollars these families currently save through FSAs back to the government, FSAs would automatically be capped at \$2,500 and then phased out over time. Anything families currently save by deducting more than that would go to the government instead.

People who choose not to buy government-approved health insurance will get clobbered with a penalty as high as \$1,500.

Businesses would also get hit. According to the bill, any business with 50 or more employees that doesn't currently provide insurance to its employees will be forced to subsidize it at a significant cost per employee—all of which brings us back to the President's pledge.

Would health care reform hit the pocketbooks of all the people who earn less than a quarter million dollars a year or wouldn't it? That is the question. You bet it would. I have listed some of the ways middle-class Americans get hit under this plan. These are the ones we know about.

But don't take it from me. The testimony of the independent, nonpartisan Joint Committee on Taxation could not be clearer. It looked at the taxes in the Finance Committee bill and found that nearly 80 percent of the burden would fall on Americans earning less than \$250,000 a year. Again, 80 percent of the burden would fall on those making less than \$250,000 a year.

Taxes on insurers and manufacturers will be passed right along to consumers, and the average income for people who have Flexible Saving Accounts is \$55,000—hardly the wealthiest segment of Americans.

Bottom line: If you have insurance, you get taxed. If you don't have insurance, you get taxed. If you are a struggling business owner who cannot afford insurance for your employees, you get taxed. If you use medical devices, you get taxed. If you buy over-the-counter medicine, you get taxed. In other words, Americans get taxed going and

coming under the \$1 trillion plan that is making its way through Congress.

No wonder most Americans oppose this plan—higher premiums, higher taxes, and cuts to Medicare. This is not the reform America bargained for. In fact, it is no reform at all. It is a bill of goods being forced on the middle class when they can least afford it.

Commonsense reforms and lower costs—that is what people want, and that is what they should get.

Madam President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each, with time equally divided and controlled between the leaders, or their designees, with the Republicans controlling the first hour and the majority controlling the second hour.

The Senator from Iowa is recognized.

HEALTH CARE REFORM

Mr. GRASSLEY. Madam President, I am going to continue on a point that the Senator from Kentucky made, and that is tax increases. I want to be a little more specific about how the health care reform bill is going to very dramatically increase taxes—particularly for groups of people with under \$250,000 a year in income, which group President Obama has promised would never have their taxes increased.

On September 12, 2008, in Dover, NH, candidate Obama said:

And I can make a firm pledge: No family making less than \$250,000 will see their taxes increase—not your income taxes, not your payroll taxes, not your capital gains taxes, not any of your taxes.

You can see on the chart that quotation. It is very firm, very clear. Well, I believe we are at the point of abrogating that promise.

President Obama's pledge has also been repeated by the President and his advisers numerous times since candidate Obama has been in office. However, the health care reform bill reported out of the Senate Finance Committee is loaded with tax hikes on "the middle class."

President Obama, however, has defined the middle class as those making under \$250,000. Candidate Obama stated that "if you are making less than \$250,000, then you are definitely somewhere in the middle class."

President Obama's budget tracks this definition by preserving the current income tax rate structure for families under \$250,000 and singles under \$200,000. And the Democratic leadership